

REMARKS

Claims 1-33 are pending in the present application. Applicants note with appreciation the indication of allowable subject matter with respect to dependent claims 2, 3, 5-10, 13 and 14 and the allowance of claims 16-33. With entry of this Amendment, Applicants amend claims 1, 2 and 12. Reexamination and reconsideration are respectfully requested.

The Examiner rejected claims 1, 4, 11 and 12 under 35 U.S.C. § 102(e) as being anticipated by Neuman (U.S. Pub. No. 2003/0103076). Claim 15 was rejected under § 103(a) as being unpatentable over Neuman in view of Hagiwara et al. (U.S. Pat. No. 6,750,389 B2). The rejections are respectfully traversed.

The present invention, as set forth in claim 1, is directed to a recorder. The recorder records a performance of music data performed in an ensemble with a playback of a music passage. The music data of the performance is in a different format than the music passage. For example, the music data of the performance can be MIDI data while the music passage can be audio data from a CD. The recorder has a data processing unit that extracts "reference characteristic data" (such as abrupt changes of an attribute of sound) from the music passage. The music data of the performance, along with this reference characteristic data and time data are formed into a data file. When the music data of the performance is played again in ensemble with another music passage in another playback, such as a different version of the same CD, the reference characteristic data is used to synchronize the music performance with the playback of the music passage. In this manner, the music performance can be played back in synchronization with any number of different versions of the same CD.

Claim 1 recites that the recorder comprises a data processing unit. The data processing unit extracts "pieces of reference characteristic data representative of particular features of an audio waveform expressing said music passage from said pieces of said second sort of music data" and forms a music data file with "said pieces of said first sort of music data, said pieces of reference characteristic data and pieces of time data"

Applicants respectfully submit that Neuman does not disclose the recited data processing unit. Neuman discloses an input video signal and an input audio signal. The audio signal is analyzed based on a characteristic, such as any sounds that exceed a pre-set decibel threshold. (See, e.g., paragraph 0030.) This analysis is then used to resequence the input video signal. Thus, when the resequenced input video signal is played with the input audio signal, the two signals are synchronized in a visually creative manner. For example, as explained in paragraphs 0032 and 0033 and Figs. 1A-1C, the frames are resequenced such that the video appears to move to the beat of the audio signal.

What is relevant here is that the Neuman apparatus does not store the characteristic data that it analyzes with any video or audio signal for subsequent playback. Thus, if the resequenced video signal is played back with a slightly different version of the input audio signal, there is no characteristic data to synch the playback. The resequenced video signal will appear to move slightly off-beat to the audio signal. Accordingly, Applicants respectfully submit that Neuman fails to disclose a data processing unit that forms a music data file with “said pieces of said first sort of music data, said pieces of reference characteristic data and pieces of time data” and that claims 1, 4, 11 and 12 are not anticipated by Neuman for at least this reason.

Before proceeding to the rejection of claim 15, Applicants note that claims 1, 2 and 12 have been amended. It is believed that claim 1, as originally drafted, is not anticipated by Neuman for at least the reason set for above. To emphasize that the reference characteristic data is used for synching another music passage in another playback, Applicants have amended claim 1 to recite that the pieces of reference characteristic data are representative of “particular features of an audio waveform expressing said music passage from said pieces of said second sort of music data *for synchronization between said performance and another music passage produced in another playback.*” Claims 2 and 12 have been amended to recite “said” another music passage in view of the amendment to claim 1.

As discussed above, the Examiner rejected claim 15 in view of Neuman and Hagiwara. Hagiwara does not make up for the deficiencies of Neuman. Hagiwara merely discloses that a MIDI

file can be input in the system of Fig. 1. Certain MIDI data is used to drive the automatic player piano while other MIDI data is used to drive the tone generator. (See Col. 5, lines 60 to Col. 6, line 16.) There is no disclosure that the system analyzes certain MIDI data, extracts reference characteristic data and then forms a file with the MIDI data and the reference characteristic data. Accordingly, Applicants respectfully submit that claim 15 is patentable over Neuman and Hagiwara.

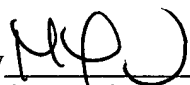
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicants request that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630 to discuss any steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. 393032040000.

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